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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,657	06/14/2005	Ulrich Luedtke	081276-1048-00	6631
23409 7590 09/30/2008 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
KRAMER, DEVON C				
ART UNIT		PAPER NUMBER		
3746				
MAIL DATE		DELIVERY MODE		
09/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/539,657

**Applicant(s)**

LUEDTKE ET AL.

**Examiner**

DEVON C. KRAMER

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "**means**" and "**said**," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

Claims 1-19 are objected to because of the following informalities: Claims 1 and 8 recite the term "in particular", this word should be removed from the claims.

Claim 11 line 1 "the rotor", should be --a rotor--.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marloh (5738503) in view of Nakanura et al (5235228) and further in view of Van De Venne et al (5711652).

IN re claims 8-19, Marloh teaches a secondary pump for a motor vehicle with an internal combustion engine (col. 4 lines 1-10), with a housing (100) and an electric motor (36) integrated into the housing; the housing having a pump mechanism (32) with at least one fan wheel fastened on a shaft (29) of the motor characterized in that a balancing plates (321, 322) and a metal balancing mechanism (180, 18) are arranged in the area of the end of the drive shaft of the electric motor. Please note that the balancing mechanism (18, 180) are away from the pump.

Nakanura teaches metal balancing plates (22F, 22R) outside a motor housing on both ends of a shaft of a motor. The balancing plates having a smaller diameter than the rotor. Further, covers (16 and 18) are taught.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have replaced the balancing means (18, 180) of Marloh with balancing plates as taught by Nakanura merely in order to provide accurate and secure balancing of the motor.

Both Marloh and Nakanura lack a motor supported by elastic means.

Venne teaches a motor supported by elastic means (18, 21) helping to seal the housing. The elastic means of Venne helps support the toque of the driving motor. Further, covers (5 and 7) and sealing lip (near 19) are taught.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have provided the assembly of Marloh as modified by Nakanura with the elastic means of Venne in order to provide a buffer to vibrations that the assembly may incur and further to reduce the sound output of the assembly.

### ***Response to Arguments***

Applicant's arguments filed 5/7/08 have been fully considered but they are not persuasive. Applicants argue the rejections of claims 8-19. Applicant is mistaken on page 12 of the arguments by stating that "Claims 5, 6 and 8-19 depend from claim 1. Claims 8-19 are a separate set of claims. The rejection of claims 1-7 has been withdrawn. Applicant argues that one would not be motivated to modify the reference of Marloh with the balancing plate of Nakanura. Please note that the balancing plate of Nakanura would result in more accurate balancing and a more secure connection of the balancing weights. In re the argument to Venne, it is well known in the art to utilize elastomer to support motors. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Further, note that any end or protruding portion of the elastomer of Venne can be considered a sealing lip.

### ***Allowable Subject Matter***

Claims 1-7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. None of the references cited either alone or in combination teach a housing in which a pump mechanism with at least one fan wheel and a motor are arranged, characterized in that the air pump is counterbalanced with the electric motor built into the housing via balancing in at least two planes that are spaced apart axially.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to DEVON C. KRAMER at telephone number (571)272-7118.

/Devon C Kramer/  
Supervisory Patent Examiner, Art  
Unit 3746